

UNITED STATES MARINE CORPS
LEGAL ASSISTANCE OFFICE
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
SAN DIEGO, CALIFORNIA 92140
(619) 514-4110

MCRD San Diego Dissolution Package

TABLE OF CONTENTS

I.	Purpose	3
II.	Services of MCRD Legal Assistance Office	3
	A. Eligibility for Dissolution Assistance	3
	Phone numbers for other military legal offices	3
	B. Process	4
	C. Expenses	4
III.	General Summary of Dissolution Law	5
	A. Division of Property and Debts	5
	Retirement Benefits formula	5
	B. Spousal Support	6
	C. Child Custody	6
	D. Loss of Benefits	7
	E. What If We Can't Agree?	7
V.	Dissolution information worksheets	8

I. PURPOSE.

This packet serves three functions. First, it explains the type of dissolution (divorce) services provided by this office. Second, it contains a general summary of dissolution law in California and addresses issues that our clients frequently encounter. Finally, this packet serves as a worksheet from which our paralegal will complete the legal documents that you will file. *THIS PACKET CARRIES NO LEGAL WEIGHT AND DOES NOT CONSTITUTE ANY TYPE OF BINDING AGREEMENT BETWEEN THE PARTIES.*

II. SERVICES OF THE MCRD LEGAL ASSISTANCE OFFICE.

The Marine Corps Recruit Depot Legal Assistance Office provides dissolution service to clients who have come to accept divorce as the best option under their current circumstances. If anger or retribution is driving your decisions, an attorney specializing in dissolution law will be a better source of aid. Our services are not a weapon for the use of one spouse against another.

A. ELIGIBILITY FOR DISSOLUTION ASSISTANCE

Unfortunately, we cannot assist everyone who is seeking a dissolution. Three factors limit the number of people that we can help: 1) the Marine Corps order on legal assistance; 2) ethical conflicts; and 3) the capabilities of the MCRD Legal Assistance Office.

The Manual of the Judge Advocate General's (JAGMAN) chapter on legal assistance only provides for "in-office attorney advice, aid, and referral." Consequently, any dissolution proceeding that requires the appearance of an attorney in court will be beyond the scope of services that this office provides. The JAGMAN also limits legal assistance services to active duty members, their dependents, retirees, and retiree dependents. Active duty members will receive priority.

Ethical regulations require that each office only represent one party in a dissolution. JAGINST 5801.2. This means that no matter how amicable your dissolution is, only one spouse will receive representation from this office. The attorney/client relationship, once formed, also carries over from previous legal services given to one spouse. JAGINST 5801.2.5e(1). For example, if a wife comes to the MCRD Legal Assistance Office for help with a landlord-tenant dispute, her husband will be precluded from using our office for assistance in a dissolution. The spouse who is precluded from using our office should seek assistance from legal assistance offices in **North Island (619) 545-6278, Miramar (858) 537-1656, or Camp Pendleton (760) 725-5788.**

Finally, the capabilities of the Marine Corps Recruit Depot Legal Assistance Office limit the services we provide. Dissolutions constitute a specialized area of family law. Although all legal assistance attorneys are members of a state bar, none are divorce specialists. Consequently, if your dissolution is in any way contested or involves

complicated issues such as division of a large estate with tax consequences or bankruptcy, we will not be able to provide representation to you.

B. PROCESS

If you qualify for our dissolution services, we will be helping you in a process that essentially requires four trips into our office. The first step involves picking up this worksheet and receiving an overview of the dissolution process from an attorney. It is helpful to bring a copy of your Leave and Earning Statement (LES) to this first meeting so the attorney can calculate child and spousal support guidelines.

The second step includes filling out this worksheet **COMPLETELY** with your spouse. The spouse who is not represented by our office must sign the affirmation of intent to participate in an uncontested dissolution. This signature is not binding, but it is necessary for us to know that both parties anticipate an uncontested dissolution. Ordinarily, this office will not assist you without this signature. You then meet with an attorney a second time to confirm that you and your spouse have reached an agreement. This meeting with an attorney is also a chance to ask any final questions. The attorney will then clear you to see the office paralegal.

Prior to your appointment with the paralegal, you must pick up two packets of forms from a family law courthouse. The family law courthouses are located at 1555 Sixth Avenue (downtown San Diego), 325 S. Melrose Dr. (North County), 250 E. Main Street (El Cajon), and 500 3rd Avenue (Chula Vista). If you need directions, see one of the clerks at the front desk. The courthouse will charge you \$2.50 for the packets. Pick up **ONE (1) DISSO PACKET** and **ONE (1) JUDGEMENT PACKET**.

The paralegal will assist you in filling out the Disso packet for you based on the information you have provided in this worksheet. The paralegal will then give you instructions on how to file it with the courthouse and arrange for service of process on your spouse. As of 1 January 2002, the filing fee was \$199.00. Once your spouse has been served, a six month statutory waiting period begins to run. The spouse who files the paperwork will be known as the petitioner. The other spouse is the respondent.

Because your dissolution is uncontested, your spouse should agree with all the terms on the petition and not need to file a response. After 30 days, a default judgment will be entered. You will then see the paralegal again for filling out the judgment packet. Once this judgment packet is filed and the six month statutory waiting period has concluded, your dissolution will be final.

C. EXPENSES

The services of our legal assistance office are free. Your only expenses should be the charge for the dissolution and judgment packets, which are \$2.50, and the filing fee of \$196. These funds are paid directly to the Clerk of the Court. If you do not have enough money to pay the fees, it may be possible to have the court waive them in the case of

extreme economic hardship. Ask our paralegal if you feel that you may qualify for a fee waiver.

III. GENERAL SUMMARY OF DISSOLUTION LAW.

A. DIVISION OF PROPERTY AND DEBTS

California is a community property state. Depending on the extent of marital assets, division of property can range from simple to complex. Unlike child support, the parties can agree on any distribution and the court will adhere to the arrangement provided it is convinced that the agreement was knowingly and voluntarily entered by both parties.

1. Community Property

Community property principles are fairly complex, but, generally speaking, all property or money acquired during the marriage, except that acquired by gift or inheritance, is considered community property. This definition is quite expansive, including intellectual property rights and personal injury awards, among other things. If you have a question about whether something is community property ask an attorney. Community property rights begin with the date of marriage and cut off at the date of separation.

2. Separate Property

Separate property belongs exclusively to only one of parties in the marriage. You need not divide separate property in the dissolution agreement. In order to prevent disagreements in the future, however, we recommend that you include any items that you want understood as separate in the agreement. Separate property can come from three sources. First, separate property consists of property which one spouse owned prior to the marriage. The other spouse must not have helped make payments on this in order for it to remain separate property. Second, separate property may also include gifts made to one spouse during the course of the marriage. Finally, any inherited property is considered separate property.

3. Debts

You are responsible for all community debts incurred by either spouse between the dates of marriage and separation. Each debt must be characterized as either community or separate property and assigned to one spouse. In general, there is no community property share of debts after separation except debts incurred for the "common necessities of life" (food, clothing, and shelter).

4. Retirement Benefits

Military retirement pay and federal civil service annuities are community property. The Uniformed Services Former Spouses' Protection Act gave states the right to treat military retirement pay as marital property. California treats a military retirement pension as community property. The formula below shows the percentage of retirement pay that a former spouse is entitled to under California's community property laws:

$$\text{One half} \times \frac{\text{length of time the marriage overlaps with military service}}{\text{length of member's creditable military service towards retirement}} \times 100$$

This formula applies only to retirement pay. Disability pay is not divisible. SGLI benefits are not considered community property.

B. SPOUSAL SUPPORT

You and your spouse can decide if one of you should receive spousal support. Any spousal support obligation created during this process will become a legal obligation under California law. California courts award spousal support on the basis of necessity. The order to pay spousal support is seldom permanent and there is no inherent right to receive spousal support. In making decisions about spousal support, the court will consider twelve factors (length of marriage, incomes, standard of living during the marriage, and other factors). The court does not automatically order spousal support in every case.

If you are unsure whether to apply spousal support in your case, ask a legal assistance attorney to go over the 12 factors that California courts consider with you. **IF ONE PARTY TO YOUR DISSOLUTION DOES NOT HAVE THE CAPACITY TO MAINTAIN A STANDARD OF LIVING SIMILAR TO WHAT EXISTED DURING YOUR MARRIAGE--YOU MAY BE A CANDIDATE FOR SPOUSAL SUPPORT.**

The Marine Corps guidelines on dependent support (Chapter 15 of the Legal Admin Manual) need not be accepted by a court. These guidelines often require support in excess of what a California court would order. Any court ordered support as a result of legal proceedings will take priority over the Marine Corps Guidelines.

C. CHILD CUSTODY AND SUPPORT

Two types of child custody exist; legal and physical. Legal custody refers to the health, education, and welfare of the child. It includes decisions about a child's religion, schooling, and moral upbringing. Physical custody refers to the child's residence. If the parents cannot agree on custody issues, the court will order mediation. It will then issue an order based on the best interests of the child. The court may give custody to either parent singly (sole custody) or to both parents (joint custody). There is a presumption in California that joint legal custody is in the best interests of the child. It is possible, however, for the court to award sole legal custody.

Courts award child support based on a mathematical formula that includes both the monthly disposable income and custody time for each parent. The results of this formula represent a mandatory guideline. This means that, in a contested case, the court must use the amount the support formula produces. In your case, you can either set the amount of child support or ask the court to calculate it for you. If you set your own amount, however, it needs to be close to the guideline amount. A judge can only approve an award of child support below the guideline if certain conditions are met. Ask your legal assistance attorney for details if you plan on setting child support below the guideline.

D. LOSS OF BENEFITS

The finalization of your dissolution will result in some loss of benefits for a nonmilitary spouse. All former spouses lose their eligibility to receive legal assistance once the dissolution is final. Former spouses who were married to a military member for 20 years and the period of service overlaps the marriage by at least 20 years retain full medical and commissary privileges after the dissolution. Spouses whose military overlap is only 15 years retain medical privileges for one year after the dissolution is final. All other spouses lose their benefits immediately.

E. WHAT IF WE CAN'T AGREE?

If you cannot agree on ALL of the above issues, your divorce will become a contested case and we cannot help you. The Marine Corps Recruit Depot does not offer any mediation services. If you believe that you are close to an agreement, we recommend that you utilize the services of a mediator. The court will require and provide mediation if your dispute involves child custody or visitation issues.

Mediation may prove worthwhile in disputes regarding property division or spousal support. The Family Law Mediation Program is located at 625 Broadway, Ste 925, San Diego CA 92101. They may be reached at (619) 235-5656. The San Diego Mediation Center is also at 625 Broadway. It is located in Ste 1221 and its phone number is (619) 238-2400. Both these agencies charge fees for their services. These fees, however, are small compared to those charged by attorneys in a contested dissolution.

IV. DISSO INFORMATION WORKSHEETS.

A. Client

Full Name _____ Rank _____ Branch _____

Address _____

City _____ State _____ Zip _____

Residence Phone _____ Work Phone _____

Date of Birth _____ SSN# _____

Occupation _____ How Long? _____

Employer _____

Employer's Address _____

City _____ State _____ Zip _____

Years completed in school _____

Employment training or education _____

State in which you last filed state income tax return _____

What year? _____ State where you last voted? _____

State you claim as your legal residence _____

Have you lived in California for the last 6 months? _____

Have you lived in San Diego County for the last 3 months? _____

Brief description of health _____

B. Spouse

Full Name _____ Rank _____ Branch _____

Address _____

City _____ State _____ Zip _____

Residence Phone _____ Work Phone _____

Date of Birth _____ SSN# _____

Occupation _____ How Long? _____

Employer _____

Employer's Address _____

City _____ State _____ Zip _____

Years completed in school _____

Employment training or education _____

State in which you last filed state income tax return _____

What year? _____ State where you last voted? _____

State you claim as your legal residence _____

State of residence for the last 6 months _____

County of residence for the last 3 months _____

Brief description of health _____

Spouse's Attorney _____ Phone _____

Attorney's Address _____

C. Marriage Information

Did you live with your spouse prior to this marriage? Yes _____ No _____

If so, how long? _____ Date of marriage _____

Place of marriage (City or Town) _____

County _____ State _____

Date of separation _____

Does wife desire her former maiden name restored? Yes _____ No _____

Wife's former or maiden name is: _____

Do you want family counseling? Yes _____ No _____

Prior marriages of client and how terminated _____

Prior marriages of spouse and how terminated _____

Has a dissolution proceeding ever been filed between you and your spouse?

Yes ____ No ____ If so, where: City _____

County _____ State _____ When _____

D. Children

Full Name	Place of Birth	DOB	Age	Sex
-----------	----------------	-----	-----	-----

--	--	--	--	--

--	--	--	--	--

--	--	--	--	--

--	--	--	--	--

Present address of minor children and with whom residing:

Living with _____

Residence of minor children for past five years:

Dates		Address	Resided with
From	to present		
From: _____	To: _____		
From: _____	To: _____		
From: _____	To: _____		
From: _____	To: _____		
From: _____	To: _____		

Is wife presently pregnant? Yes _____ No _____. If yes, when is she due _____

Have there been any other court cases concerning the custody of the children of this marriage? Yes _____ No _____. If so, describe _____

Does any other person claim custody or visitation rights for these children?

Yes _____ No _____. If so, describe _____

CHILDREN NOT OF THIS MARRIAGE

Other children of husband:

Full Name	Date of Birth	Age	Sex

Other children of wife:

Full Name	Date of Birth	Age	Sex

E. Income and Expense Information (This information is required and it is important that it be as accurate as possible).

<u>INCOME</u>	Husband	Wife
Total monthly income from Salary and Wages (including BAH, other military entitlements, commissions, bonuses and overtime) [Attach a copy of most recent LES and most recent copy of pay stub from all civilian employment]	_____	_____
Child Support Income	_____	_____
Spousal Support Received from prior marriage	_____	_____
Dividends and Interest Income	_____	_____
All Other Sources of Income (specify)	_____	_____

TOTAL MONTHLY INCOME	_____	_____
<u>DEDUCTIONS</u>	Husband	Wife
Federal Taxes	_____	_____
State Taxes	_____	_____
Social Security	_____	_____
Unemployment Insurance	_____	_____
Medical Insurance	_____	_____
Union Dues	_____	_____
Spousal Support Payments (Court Ordered)	_____	_____
Child Support Payments (Court Ordered)	_____	_____
Mandatory Retirement and Pension Contributions Per Month	_____	_____
TOTAL MONTHLY DEDUCTIONS	_____	_____

<u>NET MONTHLY INCOME</u> (Total Monthly Income Less Total Monthly Deductions)	_____	_____
<u>MONTHLY EXPENSES</u>	Husband	Wife
<u>Home expenses</u>		
Rent or mortgage	\$ _____	\$ _____
Taxes & insurance on home	\$ _____	\$ _____
Maintenance on home	\$ _____	\$ _____
Food at home & household supplies	\$ _____	\$ _____
Food eating out	\$ _____	\$ _____
Utilities	\$ _____	\$ _____
Telephone	\$ _____	\$ _____
Laundry & cleaning	\$ _____	\$ _____
Clothing	\$ _____	\$ _____
Medical & dental	\$ _____	\$ _____
Child care	\$ _____	\$ _____
Education Expenses (specify)	Husband	Wife
a. _____	\$ _____	\$ _____
b. _____	\$ _____	\$ _____
c. _____	\$ _____	\$ _____
Entertainment/Recreation Expenses (specify)		
a. _____	\$ _____	\$ _____
b. _____	\$ _____	\$ _____
c. _____	\$ _____	\$ _____
Transportation & auto expenses (insurance, gas, oil, repair)	\$ _____	\$ _____
<u>Total</u> installment payments (specify below)	\$ _____	\$ _____

ATTORNEY'S NOTES

Incidental Expenses (specify)

- a. _____ \$ _____ \$ _____
- b. _____ \$ _____ \$ _____
- c. _____ \$ _____ \$ _____
- d. _____ \$ _____ \$ _____

CHILD/SPOUSAL SUPPORT PAYMENTS
(PRIOR MARRIAGE)

\$ _____ \$ _____

TOTAL EXPENSES

\$ _____ \$ _____

F. SPOUSAL SUPPORT

Will one spouse receive spousal support? Yes _____ No _____

If so:

(a) Who is to receive support? Husband _____ Wife _____

(b) What amount per month? \$ _____

- (c) Date first payment is to be made? _____
- (d) If spousal support to continue until death or remarriage? Yes _____ No _____
- (e) Date of last payment? _____
- (f) Day(s) of month payments will be made? _____

G. CHILD CUSTODY, VISITATION AND SUPPORT:

Who will have physical custody of the minor child(ren)?

Husband _____ Wife _____ Joint _____

Who will have legal custody of the minor child(ren)?

Husband _____ Wife _____ Joint _____

Have you and your spouse agreed to reasonable visitation by the party not having physical custody? Yes _____ No _____

Do you desire any special terms concerning visitation?

Yes _____ No _____. If so, what are they?

Who will pay the costs of transportation incident to visitation?

Custodial Parent _____ Non-custodial parent _____

Split the Costs _____% for custodial parent and _____% to non-parent.

Have you and your spouse agreed to raise your child(ren) in any particular religious faith? Yes _____ No _____. If so, what faith? _____

Will the custodial parent be restricted from moving the permanent residence of the minor child(ren)

(a) Out of San Diego County? Yes ____ No ____

(b) Out of California? Yes ____ No ____

(c) Out of the United States? Yes ____ No ____

Who will pay child support?

Husband _____ Wife _____ Non-custodial Parent _____

What amount of monthly child support have you agreed upon?

\$_____ per child per month. Monthly total of \$_____.

Will the children be living in a home in which will remain jointly owned by husband and wife? Yes _____ No _____

Will the children be attending private school? Yes ____ No ____

Do you and your spouse desire to make an agreement concerning the college education expenses of you children? Yes ____ No ____

If so what percent of expenses will each parent pay?

Husband ____% Wife ____% up to a maximum of \$_____ per year for ____ years or age _____.

Who will claim the children as dependents for income tax purposes? Husband _____ Wife _____ [Normally it is the custodial parent]

Who will pay the costs of uninsured medical and dental expenses?

Husband ____ Wife ____ Split ____% Husband and ____% Wife.

If children are no longer covered by military health care benefits who will provide insurance? Husband _____ Wife _____

Will there be a duty on the part of the parent paying child support to provide life insurance for the benefit of the children? Yes ____ No _____. If so, how much? \$_____

Do you desire to require a life insurance policy as security for spousal support? If so, how much? \$_____

H. SEPARATE PROPERTY: Separate property is that acquired before marriage or after separation, or acquired during marriage by gift or inheritance. It is acceptable to list small value property by categories. For example, pots, pans, dishes, etc. may be listed as “kitchen articles.” It is important, however, that all major items of property be listed separately. Please do not be limited to the space below. Attach additional pages where necessary.

WIFE’S SEPARATE PROPERTY:

Wife’s Automobiles

					Present	Amount		
					Market	Still	Net	
Make	Model	Year	Vehicle ID#	State	Value	less	Owed	= Value
<hr/>								
<hr/>								
<hr/>								

Wife's Real Property

Please provide a copy of the Deed:

Address: _____
 Street City State

Brief Description: _____

Present Market Value _____ Amount Still Owed _____

Net Value _____

Wife's Checking and Savings Accounts

Bank	Account Number	Balance
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Wife's Miscellaneous Separate Property

Description	Present Market Value	Amount Still Owed	Net Value
1 _____			
2 _____			
3 _____			
4 _____			
5 _____			
6 _____			
7 _____			
8 _____			
9 _____			

10 _____

HUSBAND'S SEPARATE PROPERTY:

Husband's Automobiles

Make	Model	Year	Vehicle ID#	State	Present	Amount	Net
					Market	Still	
					Value	less Owed	= Value
<hr/>							
<hr/>							
<hr/>							

Husband's Real Property

Please provide a copy of the Deed:

Address: _____
 Street City State
Brief Description: _____

Present Market Value _____ Amount Still Owed _____
Net Value _____

Husband's Checking and Savings Accounts

Bank	Account Number	Balance

Husband's Miscellaneous Separate Property

Description	Present Market Value	Amount Still Owed	Net Value
1 _____			
2 _____			
3 _____			
4 _____			
5 _____			
6 _____			
7 _____			
8 _____			
9 _____			
10 _____			

COMMUNITY PROPERTY: Community property is everything which is not separate property. Most property acquired during marriage is in this category. Please complete this section of the form making sure that you indicate who will get each item of community property by categories. Please do not be limited to the space below. Attach additional pages where necessary.

COMMUNITY PROPERTY REAL PROPERTY – Please provide a copy of the deed:

Address: _____
Street
City
State

Brief Description: _____

Present Market Value – Amount Still Owed = Net Value _____

What do you desire to do with the above listed real property?

Attorney Notes: _____

COMMUNITY PROPERTY AUTOMOBILES

Make	Model	Year	Vehicle ID#	State & License#	Party to Receive H or W
1	_____	_____	_____	_____	_____
2	_____	_____	_____	_____	_____
3	_____	_____	_____	_____	_____

Value of the Community Property Vehicles

Vehicle	Present Market Value	-	Amount Still Owed	=	Net Value
1	_____		_____		_____
2	_____		_____		_____
3	_____		_____		_____

MISCELLANEOUS COMMUNITY PROPERTY

[illegible]

Stocks, Bonds
(identify)

Value

Life Insurance

Name of Company	Type of Policy	Policy Number	Cash Value	Party to Receive H or W
-----------------	----------------	---------------	------------	----------------------------

I. RETIREMENT INTERESTS

Is either party presently enrolled or participating in or entitled to benefits from a pension or retirement program by reason of employment other than the military? Yes ___ No ___

If yes, who is enrolled or entitled? Husband ___ Wife ___

Date employment began _____; date of retirement _____

Name of plan _____

Name of additional plan _____

Is husband presently entitled to a military pension? _____

Date started active duty _____; date of retirement _____

May husband become entitled to a military pension in the future?

Yes ___ No ___ Date started active duty _____

Is wife presently entitled to a military pension? _____

Date started active duty _____; date of retirement _____

May wife become entitled to a military pension in the future?

Yes ___ No ___ Date started active duty _____

What does wife desire to do with her community property interest in husband's retirement? Wants interest _____. Waives interest _____. Reserves jurisdiction for later decision _____.

What does husband desire to do with her community property interest in wife's retirement? Wants interest _____. Waives interest _____. Reserves jurisdiction for later decision _____.

J. ASSETS OF CHILDREN: Indicate description of items(s), owner, value and person in possession or control.

1. _____

2. _____

K. OBLIGATIONS/DEBTS

HUSBAND'S SEPARATE OBLIGATIONS/DEBTS

	Creditor's Name	Account #	Approx Balance	Monthly Payment
House	_____			
Payment	_____			
Car	_____			
Payments	_____			

Furniture	_____			
Payments	_____			

Credit	_____			
Cards	_____			

Loans	_____			

Medical &	_____
Dental	_____

Other	_____

WIFE'S SEPARATE OBLIGATIONS/DEBTS

	Creditor's Name	Account #	Approx Balance	Monthly Payment
House	_____			
Payment	_____			
Car	_____			
Payments	_____			

Furniture	_____			
Payments	_____			

Credit	_____			
Cards	_____			

Loans	_____			

Medical &	_____
Dental	_____

Other	_____

COMMUNITY OBLIGATIONS/DEBTS

	Creditor's Name	Account #	Approx Ba. Time Sep	Monthly Payment	Assigned to H W
House Payment	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
Car Payments	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
Furniture Payments	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
Credit Cards	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
Loans	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____

Medical &	_____	_____	_____
Dental	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

Other	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

EQUALIZING PAYMENT. Will there be any payment from on espouse to the other to equalize the division of community property and obligations? Yes ____ No ____.

If so, who will pay? Husband ____ Wife ____.

What amount? \$_____